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claring and limiting particular phases of the use of the phonograph. Bench and Bar, referring to the weight of the evidence received in the Michigan court, observes that "we doubt the adequacy of the comparatively faint voice of a phonograph to reproduce the full effect of a railroad train steaming along a street." There is, of course, point to this remark. It would seem, however, that the evidence was competent for what it was worth, and the question of adequacy or inadequacy of representation was one for argument and perhaps for additional testimony.

Husband and Wife—Actions Between on Tort or Contract.—In *Heyman v. Heyman*, in the Court of Appeals of Georgia (April, 1917, 92 S. E. 25), the actual decision, according to the syllabus by the court, was that "under the statute law of Georgia a wife cannot recover of a husband, with whom she is living in lawful wedlock, for a tort resulting from his negligent operation of an automobile in which they were riding at the time of the injury." The decision is of interest because after an examination and comparison of Married Women's Enabling Acts and decisions of the courts of various states interpreting them, the general proposition is laid down that a wife has no right to sue for husband for a tort committed by him. This question has been passed upon by the courts of many states, and we cannot say what the numerical preponderance of authority is one way or the other. The Supreme Court of Errors of Connecticut in *Brown v. Brown* (89 Atl. 889), holds that under the Married Women's Act of that state a wife might maintain an action for false imprisonment and assault against her husband. The Supreme Court of the United States in *Thompson v. Thompson* (218 U. S. 611), Justices Harlan, Holmes and Hughes dissenting, had chosen the ultra-conservative view holding that such an action would not lie.

The Michigan Law Review for May, 1917, contains the following editorial note:

"Husband and Wife—Contract for Services Rendered Husband.—The husband had hired the plaintiff, his wife, to assist him in his work as a detective, agreeing to pay her what her services were reasonably worth. The statute provided that a married woman might contract with reference to her property in the same manner and to the same extent as a married man and that she should be entitled to her earnings. She sued to recover from husband's estate the value of her services to him. Held that a married woman under an express contract with her husband may recover for extra or unusual services rendered him (*In re Cormick's Estate*, Neb., 1916, 160 N. W. 989).

The authorities are in considerable conflict upon the point raised in the instant case. Under most married women's statutes the wife is entitled to her earnings in her separate business or when she is

in the employ of a third person (*Carse v. Reticker*, 95 Ia. 25; *Peterson v. Mulford*, 36 N. J. L. 481). All the authorities agree to the invalidity of a contract by a married woman to render services about the household, which she is in duty bound to do (*Michigan Trust Co. v. Chapin*, 106 Mich. 384, 58 Am. St. Rep. 490 and note). But if the wife has good cause for divorce and, in consideration of money to be paid her for continuing her household duties, drops a divorce suit, the contract will be enforced (*Phillips v. Meyers*, 82 Ill. 67). The New York decisions are contrary to the principal case. In *Blaechinska v. Mission and Home* (130 N. Y. 497), the plaintiff, a married woman, was employed as a seamstress by her husband. She was injured through the negligence of the defendant and sued for the value of her services, which she could no longer perform. The New York statute then provided that a married woman should be entitled to her earnings, but the court held that she could not recover. In *Coleman v. Burr* (93 N. Y. 17), the wife agreed with her husband to care for his mother for \$5 a week, and did so for eight years. The husband conveyed to her a tract of land in payment, and the deed was set aside as a fraud upon creditors (see also *Matter of Callister*, 153 N. Y. 294). Even under the latest New York statute, which provides that a married woman may make all contracts in regard to her property which an unmarried woman may make, and with any person, including her husband, the court held that she could not contract with him for her services even in an extraordinary or unusual employment. (In *re Kaufmann*, 104 Fed. 768). In New Jersey the statute provided that a married woman might bind herself by contract with any person in the same manner as if she were unmarried; it was held not to apply to a contract to act as saleswoman of a partnership of which her husband was a member (*Turner v. Davenport*, 61 N. J. Eq. 18; contra, *Powers v. Fletcher*, 84 Ind. 154). The Indiana statute provides that all the legal disabilities of a married woman are abolished except as otherwise provided; the court said that as it was not expressly provided that she might not contract with her husband to serve him, she might do so. *Roche v. Union Trust Co.* (52 N. E. 612, Ind.) holds that a woman who clerked in a store for her husband under an express agreement might recover from the trustee for the benefit of creditors. The case of *Nuding & Schlouch v. Ulrich* (169 Pa. St. 289) holds that the wife might recover compensation under an express agreement to cook in her husband's restaurant. The statute in that case is similar to those in New York and New Jersey."

Other New York decisions in *Freethy v. Freethy*, 42 Barb. 641 and *Schulz v. Schulz*, 27 Hun 26, 89 N. Y. 644, disclose a similar attitude with regard to recovery on tort.

In *Fitzpatrick v. Owens*, in the Supreme Court of Arkansas (May, 1916, 186 S. W. 832), it was laid down that under an act providing

that a married woman in law and equity shall enjoy all rights and be subjected to all laws as though she were a femme sole, a married woman may maintain an action against her husband either for contract or tort, and her representatives may sue her husband for wrongful death under the statute of that state embodying the principle of Lord Campbell's Act. It may be that the Arkansas enabling statute is broader in form than those of most of the other states. But courts of some states in which the statutes are not expressly liberal in their terms have allowed married women to sue their husbands in tort, and the question whether a cause of action either in tort or contract shall be recognized is really one whether a statute shall be liberally or strictly interpreted. It is a matter of much regret that although married women's enabling acts have been in operation for many years, and although there is no substantial reason why the old fiction of legal oneness should be retained, and extensive conflict of law exists on the subject.

It was the opinion of Hinton, J., in the Virginia case of *Alexander v. Alexander*, 85 Va. 353, 7 S. E. 335, that the idea of legal unity had been so far served by the Married Woman's Act, April 4, 1877, that she could sue her husband as well as another, at law, upon any contract made with him after the passage of the act. But as to actions in tort there has been no intimation by the court.

Insurance—Death by Accident—Construction of Phrase—"Visible Marks on Exterior of Body."—In *Parker v. North American Acc. Ins. Co.*, in the Supreme Court of Appeals of West Virginia (April, 1917, 92 S. E. 88), it was laid down in the official syllabus that "ordinarily in case of an immediately fatal accident, the difference in the appearance of insured just before the accident and of his dead body immediately thereafter is a sufficient visible mark upon the body of the insured to prevent the reduction of the indemnity provided in the policy under a provision therein contained that in case of injuries, fatal or otherwise, of which there shall be no visible marks on the exterior of the body, the limit of the company's liability shall be one-fifth of the amount that would otherwise be payable under the policy." On this point the court said:

"The evidence in this case shows that the only marks on the outside of the body of the assured was a slight scratch upon his face, and it is conceded that his death did not result from this. It is apparent that death resulted because of the severe concussion resulting from the contact of his head with the knee of an opposing player (the accident occurred in the course of a game of football), no doubt causing the rupture of a blood vessel in the brain. Can the defendant company reduce its liability on this policy to one-fifth of the amount thereof because of the provision in the policy that in the event of injuries, fatal or otherwise, of which there shall be